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HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.18900 of 2007

Dated: 26.10.2007

Between:

Smt.Sunita Bai and another.

... Petitioners

AND

The District Collector, Hyderabad District,
Hyderabad and three others.

... Respondents.

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ORDER:

This Writ Petition is filed for a Writ of Mandamus to declare the Land Acquisition proceedings in respect of shop bearing Municipal Nos.22-6-2/3 and 22-6-2/3/A, ground floor, admeasuring 32.96 Sq. yards situated at Jyothi Arcade Building, Kali Kamam, Shaheer-e-Hyderabad village, Bahadurpura Mandal, Hyderabad, as illegal and arbitrary.

Petitioners 1 and 2 are owners and occupiers of the shops, whose description is given in the earlier para. Petitioner No.2 is the daughter of Petitioner No.1. Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act") was published in the Gazette dated 18-1-2007 for acquiring the aforementioned property. This was followed by a declaration made under Section 6 of the Act. An Award was passed on 16-4-2007 (wrongly mentioned as 14-4-2007 in the counter-affidavit filed by respondent No.2).

Sri Mahesh Kumar, husband of petitioner No.1 and father of petitioner No.2, who was present in the award enquiry, received the compensation amount paid through cheque. Thereafter, the present Writ Petition

was filed by the petitioners questioning the acquisition proceedings.

During the hearing of the case, Dr.I.Sujata, learned counsel for the petitioners, submitted that the respondents have committed a procedural irregularity by failing to get the notification under Section 4(1) of the Act published in two news papers as mandated under Section 4(1).

In the light of the submissions made by the learned counsel for the parties, I have summoned the record. Today the learned Assistant Government Pleader for Land Acquisition produced the record, which reveals that the notification under Section 4(1) of the Act was published in two news papers, viz., Deccan Chronicle dated 23-1-2007 and Vartha Daily (Telugu) on 24-1-2007. Learned counsel for the petitioners, who perused the publications, fairly admitted the said fact.

Having not been left with any other legal contention, learned counsel for the petitioners submitted that no notices under Section 9(3) and 10 of the Act were served on the petitioners. The learned Assistant Government Pleader pointed out from the record that these two notices were received by Sri Mahesh Kumar on 24-1-2007. Indeed, respondents No.2 had made this assertion in paragraph 4 of the counter-affidavit. The petitioners failed to file any rejoinder controverting the said allegation. Apart from the fact that the husband of the 1st petitioner and father of the 2nd petitioner received the award enquiry notices, he participated in the award enquiry proceedings and received the compensation. The present Writ Petition, in my view, is

a pure afterthought. As the petitioners have not made out any illegality or procedural impropriety in the acquisition of the land of the petitioners, I do not see any reason to interfere with the acquisition proceedings, which were already completed with the passing of the Award on 16-4-2007.

The Writ Petition is, therefore, dismissed. It is, however, observed that if the petitioners are not satisfied with the quantum of compensation fixed by the Land Acquisition Officer, they are at liberty to make an appropriate application under Section 18 of the Act for reference of the dispute to a competent Civil Court for enhancement of the compensation.

C.V.NAGARJUNA REDDY,

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